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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.**

**O.A. NO.171 OF 2005  
Cuttack, this the 30<sup>th</sup> day of August, 2005.**

**BIKASH DAS**

**APPLICANT**

**VERSUS**

**UNION OF INDIA & ORS.**

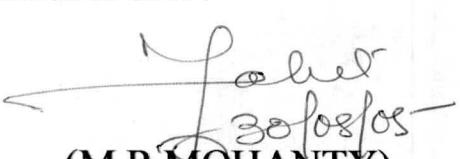
**RESPONDENTS.**

**FOR INSTRUCTIONS**

1. Whether it be referred to the reporters or not? 73

3. Whether it be circulated to all the Benches of CAT? 74

  
**(B.N. SOM)**  
**VICE-CHAIRMAN**

  
**(M.R. MOHANTY)**  
**MEMBER (JUDICIAL)**

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## **CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.**

**Original Application No. 171 of 2005.  
Cuttack, this the 30<sup>th</sup> day of August, 2005.**

### **C O R A M:-**

**THE HON'BLE MR. B.N.SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)**

BIKASH DAS, Aged about 48 years, S/o. Manindra Kumar Das,  
Asst. Engineer, AGE E/M-II,O/O the Garrison Engineer(Independent),  
Research & Development, Chandipur, PO- Chandipur,  
District- Balasore ( Orissa ) ..... **APPLICANT.**

For the Applicant. : Mr. S.K.Mohapatra, Advocate.

### **VERSUS**

1. Union of India represented through its Secretary,  
Ministry of Defence, North Block, New Delhi.
2. The Engineer-in-Chief, Director Gen (P)/EIB,  
Military Engineer Services, Engineer-in-Chief Branch,  
Army Head Quarters, DHQPO, New Delhi-11.
3. Dinesh Agarwal, EE (SG), Joint Director,  
Pers (M), Director General Personnel/EIB,MES,EIC  
Branch, Army Headquarters, DHQPO, New Delhi-110 001.
4. The Major G.N.Juneja,  
Garrison Engineer (Independent),  
Research & Development, Chandipur,  
PO-Chandipur, Dist. Balasore(Orissa). *J*

5. The Chief Engineer, Eastern Command,  
Fort William, Kolkata-21.

..... RESPONDENTS.

For the Respondents: Mr. U.B. Mohapatra, Sr. Standing Counsel.

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O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL):-

Applicant, an Assistant Engineer of Garrison Engineering Organisation (attached to Research and Development Wing, engaged at Chandipur Chandipur in the District of Balasore of Orissa) having faced an order of transfer (under Annexure-A/3 dated 08.04-2005) from Balasore (Orissa) to Kolkata (West Bengal ), has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985. He has challenged the said order of transfer, by branding the same to be an out come of mala fide. He has stated that the said order of transfer has been passed within eleven months of his joining at Chandipur/Balasore and that before being posted at Balasore, he was at Umroi/Shillong (Meghalaya) and that the impugned order has been passed during the current academic session. He has, therefore, prayed for quashing of this impugned order of Transfer under Annexure-A/3 dated 08.04.2005 in this Original Application.

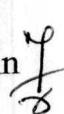
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2. By filing counter, the Respondents while denying the allegations made by the Applicant in his Original Application, have stated that the transfer of the Applicant was necessitated due to administrative exigencies and, therefore, needs no interference by this Tribunal. Applicant has however, filed a rejoinder.

3. We have heard Mr. S.K. Mohapatra, Learned Counsel appearing for the Applicant and Mr. U.B. Mohapatra, Learned Senior Standing Counsel appearing for the Respondents-Department and perused the materials placed on records.

4. Learned counsel appearing for the Applicant has submitted that the Applicant came on transfer from Umroi/Shillong (Meghalaya) to Chandipur/Balasore (Orissa) only on 10.05.2004 and that even before completion of one year, he has again been asked to face transfer. It has been submitted by him that the impugned order of transfer is not on administrative exigencies, but is a case of victimization being passed during the mid academic session. In support of the plea that the transfer order has been actuated with mala fides, though several allegations were made; we are not very much impressed to take note of those bald allegations. In order to test the veracity of the allegations put-forth by the Applicant, on our direction, the concerned file dealing with the transfer of the Applicant was

produced by Mr. U.B. Mohapatra, learned Senior Standing Counsel appearing for the Respondents. On perusal of the materials placed on record, are, rather, satisfied that the Applicant has right been transferred away from Chandipur/Balasore (Orissa) purely on administrative grounds and it is seen that the factual aspects alleged by the Applicant (in order to show 'mala fides') had no role to play or to be the basis of his transfer. The plea of mid-academic transfer has got no basis; because the young child of the Applicant took admission in the local school at Balasore District of Orissa only after passing of the impugned order of transfer.

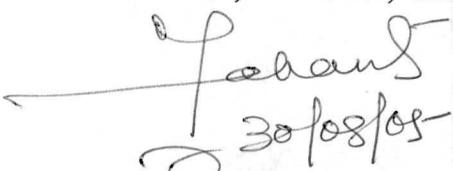
5. The role of Courts/Tribunals in the matter of transfer of Government employees is no more res-integra. It has been cautioned by the Hon'ble Apex Court, time and again, that courts/Tribunals should not interfere in the routine matter of transfer of the Government employees; that, transfer being an incident of service, the authorities/employers are the best judge to decide who should be posted where and at what pint of time and that the wheels of the administration should be allowed to run smoothly and the courts/Tribunals are not expected to interfere with the working of the administration (Refs. **Shilpi Bose vrs. State of Bihar**, reported in AIR 1991 SC 532; **Union of India vrs. H.N.Kirtania**, reported in 1989 3 SCC 445, **Gujurat Electricity Board vrs. Atmaram Sungomal Pashani**, reported in 

AIR 1989 SC 1433; **Union of India vrs. S.L.Abas**, reported in AIR 1993 SC 2444; **State of Madhyapradesh vrs. S.S.Kourav**, reported in AIR 1995 SC 1056; and in the case of **Union of India vrs. N.P.Thomas**, reported in AIR 1993 SC 1605.

6. No materials have been placed by the Applicant to show that the said transfer of the Applicant has been made in clear violation of any statutory/ mandatory Rules. The admitted position is that the Applicant is holding a post having all India transfer liability.

In the above view of the matter, we find no merit in this Original Application; which is hereby dismissed. Parties, however, shall bear their own costs.

  
(B.N.SOM)  
VICE-CHAIRMAN

  
30/08/08  
(M.R.MOHANTY)  
MEMBER(JUDICIAL)